

1954

Jan. 20

General Frank D. Merrill, Commissioner
Department of Public Works & Highways
State House Annex

Dear General Merrill:

With reference to your inquiry on the subject of Awards - Damages - dated January 25, 1954, your interpretation contained in the second paragraph of your memorandum is correct.

Revised Laws, chapter 90 as inserted by chapter 189, Laws of 1943 at Pt. 4, section 17; Pt. 5, section 24; Pt. 6, section 5; Pt. 18, section 20; Pt. 19, section 37; Pt. 22, sections 2 and 5; Pt. 23, section 3 and Pt. 25, section 4, all give a statutory right of appeal to the aggrieved land owner. In Revised Laws, chapter 189 relating to railroad crossings, stations, fences, etc., "Any party aggrieved by the assessment of the public utilities commission has a right of appeal", and in that limited instance you would have such right, in my opinion.

Where an award is considered inadequate ample provision is made for the protection of the land owner by the above cited sections of the highway law. Where an award, in your opinion, is excessive, nothing can be done about it unless it is directed that the excessive award was occasioned by influences tending to subvert the free exercise of judgment by the Commissioners. In the absence of such evidence the act of the Commission being the act of the State binds the State. *determine*

Very truly yours,

George F. Holson
Assistant Attorney General

GFH:RM

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